

## 7.00 Definitions

CARBON DIOXIDE EQUIVALENT (CO<sub>2</sub>e), means the amount of GHGs emitted by a facility, computed by multiplying the mass amount of emissions in tons per year for each of the greenhouse gases in the air contaminant GHGs, by each gas's associated global warming potential set forth in 40 CFR part 98 subpart A Table A-1 – Global Warming Potentials, and summing the resultant value for each to compute tons per year CO<sub>2</sub>e.

CRITERIA AIR CONTAMINANT or CRITERIA POLLUTANT means ozone (O<sub>3</sub>), ~~PM<sub>10</sub>~~ particulate matter (PM), sulfur oxides measured as sulfur dioxide (SO<sub>2</sub>), nitrogen dioxide (NO<sub>2</sub>), volatile organic compounds (VOC) as non-methane hydrocarbons, carbon monoxide (CO) or lead (Pb), or any other air contaminant for which national ambient air quality standards have been adopted.

GREENHOUSE GASES (GHGs) means the air contaminant that is the aggregate of the group of six gases: Carbon dioxide (CO<sub>2</sub>), Methane (CH<sub>4</sub>), Nitrous oxide (N<sub>2</sub>O), Hydrofluorocarbons (HFCs), Perfluorocarbons (PFCs), and Sulfur hexafluoride (SF<sub>6</sub>).

National Ambient Air Quality Standards (NAAQS) or Federal Ambient Air Quality Standards means the ambient air quality standards for criteria pollutants adopted by the Administrator pursuant to the Clean Air Act §109 (42 U.S.C. §7410) and codified at 40 CFR Part 50 as in effect on December 28, 2015.

PM<sub>10</sub> or PARTICULATE MATTER 10 means particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers as measured by a federal reference method based on Appendix J of 40 CFR Part 50 ~~of CFR 40~~ and designated in accordance with 40 CFR Part 53 or by a ~~an~~ federal equivalent method designated in accordance with 40 CFR Part 53.

PM<sub>2.5</sub> or PARTICULATE MATTER 2.5 means particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by a federal reference method based on Appendix L of 40 CFR Part 50 and designated in accordance with 40 CFR Part 53 or by a federal equivalent method designated in accordance with 40 CFR Part 53.

PM<sub>2.5</sub> EMISSIONS means finely divided solid or liquid material, or condensable substance, other than uncombined water, emitted to the ambient air, as measured by applicable reference methods, or equivalent or alternative methods, specified by EPA in the CFR or by test methods specified by DEP and approved by EPA.

POLLUTION PREVENTION means, for the purpose of 310 CMR 7.02(8)(a)2.(b), using one or more materials (e.g., coatings, inks, solvents, etc.) formulations, processes, work practices, design features, equipment specifications or any combination thereof, which reduce air emissions to the maximum extent practical.

POTENTIAL EMISSIONS or POTENTIAL TO EMIT means the maximum capacity of a facility or a stationary source to emit any air contaminant or pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the facility or stationary source to emit any air contaminant or pollutant, including air pollution control equipment and/or restrictions on hours of operation, or on the type or amount of material combusted, stored or processed, shall be treated as part of the design only if the limitation is specifically stated in the facility's or stationary source's application for

plan approval or approved plan approval(s), ~~approved~~ emission control plan(s), operating permit, certification(s), restricted emission status, notification(s) and applicable regulations, or in the case of *de minimis* sources, in records of actual emissions established and maintained at the facility or stationary source pursuant to 310 CMR 7.02(2)(b). Fugitive emissions, to the extent quantifiable, are included in determining the potential emissions or the potential to emit of a facility or stationary source; secondary emissions are not included.

## 7.02 U Plan Approval and Emission Limitations

### (1) Purpose and Applicability.

(a) Purpose. The purpose of 310 CMR 7.02 is to provide procedures and standards for the issuance of approvals in the Commonwealth of Massachusetts, and establish emission limitations and/or restrictions for a facility or emission unit.

(b) Plan Approvals to Construct, Substantially Reconstruct or Alter. Except as provided in 310 CMR 7.02(2), Aa plan approval is required prior to any construction, substantial reconstruction, alteration, or subsequent operation of a facility or emission unit that may emit air contaminants to the ambient air. ~~The plan approval requirement of 310 CMR 7.02 is applicable to facilities constructed, reconstructed or altered after July 1, 1970 in the Metropolitan Boston Air Pollution Control District and after September 15, 1970 in all other districts. Exemptions to this requirement are provided in 310 CMR 7.02(2).~~

(c) Reserved

(d) Determining Plan Approval Applicability. For the portion of the facility or emission unit that is proposed to be constructed, substantially reconstructed or altered and subsequently operated, the need for a plan approval is determined by comparing the maximum design capacity of the proposed equipment for fuel utilization facilities or the potential to emit to the plan approval thresholds in 310 CMR 7.02(4) and 310 CMR 7.02(5). For the air contaminant GHGs, the potential to emit shall be determined based on tons per year CO<sub>2</sub>e, and 310 CMR 7.02 shall be applicable to GHGs only if:

1. construction of a new facility or emission unit results in an increase in potential emissions equal to or greater than 100,000 tons per year CO<sub>2</sub>e; or
2. substantial reconstruction or alteration of a facility or emission unit results in an increase in potential emissions equal to or greater than 75,000 tons per year CO<sub>2</sub>e.

~~(d)~~(e) Department Participation. In approving or denying an application for plan approval, the Department shall limit its action to matters that may cause or contribute to a condition of air pollution.

### (2) Exemptions from Plan Approval.

(a) Introduction. 310 CMR 7.02(2)(b) specifies changes that may be made at a facility that are exempt from the approval requirements of 310 CMR 7.02(4) and (5). 310 CMR 7.02(2)(c) specifies situations that are not eligible for such exemption. 310 CMR 7.02(2)(d) through (f) specify record keeping, reporting and enforcement provisions.

(b) Exemptions. Except as provided by 310 CMR 7.02(2)(c), construction, substantial reconstruction or alteration of a facility or emission unit is exempt from the requirement to obtain a plan approval under 310 CMR 7.02(4) ~~or~~ and 310 CMR 7.02(5) if it qualifies as one or more of the following:

1. Air Pollution Control Equipment. An air pollution control device, excluding oxidizers or afterburners, added to any facility currently in compliance with the

provisions of 310 CMR 7.02. This exemption is only available where the air pollution control equipment is not otherwise required by regulation, the air pollution control equipment does not increase the potential emissions of any single criteria pollutant or any single non-criteria pollutant by one ton or more as calculated over any 12 consecutive month time period, and the air pollution control equipment does not replace an existing air pollution control device required by plan approval or regulation. ~~Persons installing air pollution control equipment as allowed by this exemption shall notify the Department, within 60 days of installation, that air pollution control equipment has been installed.~~

2. Air Pollution Control Equipment for Control of Particulate. Replacement of an existing air pollution control device for particulate matter (e.g., baghouse), even if required by a ~~previous~~ plan approval. The replacement device shall be similar in design as the existing control device, and the same size or larger than the original control device. The replacement control device must be designed to achieve the same or better collection efficiency as the original control device. The Department must be notified, in writing, that a particulate air pollution control device is going to be replaced. This notification must be made at least 30 days prior to installation of the new unit. Said notification shall include a full description of the replacement control device.

3. Battery Charging. Battery charging facilities used to charge lead acid batteries.

4. Reserved.

5. Burner Tip Replacement. A fuel utilization facility burner tip replacement.

6. Cooling Towers. A cooling tower that has maximum recirculation rate of 20,000 gallons per minute (gpm) or less, a drift eliminator, a non-chromium inhibitor, and has total dissolved solids concentration in the blowdown less than 1800 mg/l. The total dissolved solids concentration shall be determined using Part 2540C as published in the latest edition of *Standard Methods For the Examination of Water and Wastewater* as published by the American Public Health Association, American Waterworks Association and Water Pollution Control Federation or by an equivalent method approved by the Department.

7. De minimis Increase in Emissions. Construction, substantial reconstruction, or alteration that results in an increase in potential emissions of less than one ton of any air contaminant, calculated over any 12 consecutive month time period. In order to determine eligibility under 310 CMR 7.02(2)(b)7., emissions shall be calculated based on the increase in potential emissions (as defined in 310 CMR 7.00) of the planned action. Reductions in emissions resulting from reduced utilization or elimination of emission units cannot be deducted. Products of combustion from any fuel utilization facility and emissions from an emission unit(s) installed in compliance with 310 CMR 7.02 or 310 CMR 7.26 are not included when calculating an increase in potential emissions for the purpose of determining applicability under 310 CMR 7.02(4)(a)1. or 2. or 310 CMR 7.02(5)(a)1., 2. or 3. (See also 310 CMR 7.02(6)).

8. Emergency Engines or Stand-by Engines. An individual emergency or stand-by engine that operates in compliance with the provisions of 310 CMR 7.02(8)(i) if installed prior to June 1, 1990 or is in compliance with 310 CMR 7.03 for units installed on or after June 1, 1990. Emergency or stand-by engines that have received plan approval must comply with the terms and conditions of the plan approval.

9. Emergency Release Containment. An area constructed for the containment of unplanned releases.
10. Fire Suppression Systems. Fire protection, fire fighting and fire suppression system, except for those fire suppression systems and activities associated with the intentional combustion of materials for the purpose of fire suppression system evaluation or fire science research.
11. Fuel and Chemical Storage Tanks. Organic liquid storage tanks with a capacity less than or equal to 40,000 gallons and used exclusively to store product with a vapor pressure of less than 1.5 psi at the average annual ambient temperature. Storage tanks subject to this exemption must be equipped with conservation vents and aboveground units shall have a white or reflective surface. Organic liquid storage tanks may be subject to 40 CFR Part 60, subpart Kb, Standards of Performance for Volatile Organic Liquid Storage Vessels (including Petroleum Liquid Storage Vessels) for which construction, substantial reconstruction, or modification commenced after July 23, 1984.
12. Fuel Atomization Equipment. Fuel utilization facility burner atomization equipment replacement or repair. Replacement of steam or air atomization with mechanical atomization is not eligible under this exemption.
13. Fuel Loading Racks. Organic liquid transfer racks that transfer less than 172,000 gallons per year of organic liquids or organic liquid transfer racks that transfer exclusively organic liquids with a vapor pressure of less than 1.5 psi at the average ambient annual temperature. Transfer racks eligible under this exemption must comply with the requirements of 310 CMR 7.24, as applicable.
14. Fuel Switching. Conversion of a fuel utilization facility rated at a maximum heat input capacity of less than 100,000,000 Btu per hour energy input where the unit is converted from oil or solid fuel to oil/natural gas dual-fuel capability or natural gas as the only fuel. For purposes of this exemption, a fuel utilization facility is defined as any single boiler, hot oil generator, melt furnace, process heater, oven or similar fuel burning unit as determined by the Department.
15. Fuel Utilization Facilities. Any fuel utilization facility, excluding internal combustion engines such as combustion turbines or reciprocating engines, where the individual fuel utilization emission unit being constructed, substantially reconstructed or altered has a maximum energy input capacity less than:
  - a. 10,000,000 Btu per hour utilizing natural gas or propane.
  - b. 10,000,000 Btu per hour utilizing distillate fuel oil.
  - c. 10,000,000 Btu per hour utilizing residual fuel oil with a sulfur content of not more than 0.28 pounds per million Btu heat release potential (approximately 0.5% sulfur by weight) (Also see 310 CMR 7.05(1) and (2)).
  - d. 5,000,000 Btu per hour utilizing residual fuel oil having a sulfur content of not more than 0.55 pounds per million Btu heat release potential (approximately equal to 1% sulfur by weight) (Also see 310 CMR 7.05(1) and (2)).
  - e. 3,000,000 Btu per hour utilizing solid fuel with automatic fuel feed.
  - f. 3,000,000 Btu per hour utilizing digester gas.
  - g. 1,000,000 Btu per hour utilizing hand-fired solid fuel.

NOTE: Multiple fuel utilization emission units installed at a single facility must be evaluated for aggregate emissions to ensure that 310 CMR 7.00: *Appendix A* or PSD (40 CFR 52.21) is not triggered.

16. Insignificant Activities. An activity listed in 310 CMR 7.00: *Appendix C* (5)(i), as well as office equipment, static electricity reduction devices, electric arcs, and motors that generate ozone.
17. Maintenance or Repair. Routine maintenance or repair of a facility.
18. Mixing and Blending Equipment. Equipment used exclusively to mix or blend materials at ambient temperatures to make water-based solutions containing no more than 5% volatile organic compound (VOC) by weight.
19. Molding. Plastic injection or compression molding machines. Extrusion molding and blow molding is not eligible under this exemption.
20. Motor Vehicle Maintenance. Motor vehicle maintenance and repair facilities. Automobile refinishing facilities are not eligible under this exemption.
21. Operating Hours. An increase in the hours of production of a facility not otherwise restricted
22. Operating Rate/ Product Changes. An increase in the rate of production at a facility not otherwise restricted.
23. Ownership. A change in facility ownership. The new owner shall notify; ~~provided that~~ the Department ~~is notified~~ in writing of the ownership change within 60 days of the effective date of the change.
24. Plan Approval by Rule. An emission unit listed in 310 CMR 7.03 provided that the emission unit fully conforms to the design, operation, maintenance, and record keeping requirements of 310 CMR 7.03.
25. Plumbing. Plumbing soil stacks or vents.
26. Pressure Relief Devices. Safety pressure relief devices associated with emission units having plan approvals, unless otherwise required by the Department.
27. Relocation of Approved Equipment. Relocation of any previously approved equipment provided that the equipment is relocated within the facility or to a contiguous property and provided that the relocated equipment does not cause or contribute to a condition of air pollution.
28. Thermal and Catalytic Oxidizers. A process emission oxidizer or afterburner with a rated capacity of less than 40,000,000 Btu per hour using natural gas and installed on a previously approved facility or on a new facility which otherwise meets the plan approval exemptions provided in 310 CMR 7.02(2). This exemption is only available where the air pollution control equipment is not otherwise required by regulation, and the air pollution control equipment does not replace existing air pollution control equipment required by plan approval or regulation. Flares are not eligible under this exemption. Persons installing thermal or catalytic oxidizers as allowed by this exemption shall notify the Department, within 60 days of installation, that oxidizers have been installed.
29. Turbines and Reciprocating Engines.
  - a. Prior to March 23, 2006, an individual internal combustion engine including a combustion turbine or reciprocating engine having an energy input capacity less than 3,000,000 Btu per hour or an internal combustion engine regulated by EPA as a non-road engine pursuant to 40 CFR 89, 90, 91, and 92.
  - b. On and after March 23, 2006, an individual internal combustion engine including a combustion turbine or reciprocating engine installed and operated in compliance with 310 CMR 7.26(40) through (44), or an internal combustion engine regulated by EPA as a non-road engine pursuant to 40 CFR 89, 90, 91, and 92.



30. Wastewater Treatment. Wastewater treatment and/or pumping facilities with average daily input flows of less than 50,000 gallons per day, and that treat sanitary sewage exclusively.

31. Water Treatment. Water treatment systems for process cooling water or boiler feed water.

32. RACT, Organic Material Storage and Distribution, ERP, or NO<sub>x</sub> Allowance Program. Construction, substantial reconstruction or alteration required to comply with the requirements of 310 CMR 7.18, 7.19, 7.24, 7.26, ~~7.27 or 7.28~~ or 7.34. This exception does not apply to any boiler complying with the repowering provisions of 310 CMR 7.19(4)(b), any printer complying with 310 CMR 7.26(23)(a)3., or any wood fuel-fired boiler.

33. Actions that Contravene an Issued Plan Approval. Except as provided in 310 CMR 7.02(2)(b)33.a. and b., the construction, substantial reconstruction, or alteration of a facility or emission unit that would contravene an issued plan approval does not require a new plan approval, provided that the planned construction, substantial reconstruction, or alteration does not increase potential emissions by one ton per year or more above the emission limitation established by the issued plan approval. Persons constructing, substantially reconstructing or altering a facility or emission unit as allowed by this exemption shall notify the Department within 30 days of any such action. In order to determine applicability under 310 CMR 7.02(2)(b)33., emissions shall be calculated based on the increase in potential emissions (as defined in 310 CMR 7.00) of the planned action. Reductions in emissions resulting from reduced utilization or elimination of, emission units cannot be deducted. Products of combustion from any fuel utilization facility and emissions from an emission unit(s) installed in compliance with 310 CMR 7.02 are not included when calculating an increase in potential emissions.

a. Notwithstanding the provisions of 310 CMR 7.02(2)(b)33., the provisions of 310 CMR 7.02(4) and 310 CMR 7.02(5) requiring a written plan approval shall apply to any construction, substantial reconstruction, or alteration of a facility or emission unit that would contravene those provisions of an issued plan approval that require:

- i. emission control equipment design specifications; or
- ii. emission control equipment capture and/or destruction efficiency standards; or
- iii. emission limits (except emission limits per year or rolling 12 month average); or
- iv. air contaminant ventilation characteristics such as stack height; or
- v. limitations on the VOC/HOC content of coatings; or
- vi. recordkeeping, monitoring, testing or reporting requirements.

b. Where the action would result in an increase in allowable or potential emissions above limits established in an approved RES, the RES must be modified as described in 310 CMR 7.02(10).

34. Biotechnology Laboratory. A laboratory used solely for research, development or support for medical device, drug, or biologic products derived in whole or in part from biotechnology, and such products are either undergoing preclinical research in preparation for, or are the subject of, one of the following U.S. Food and Drug Administration (FDA) regulatory applications or notices: an Investigational New Drug Application, an Investigational Device Exemption Notice, a New Drug Application, premarket approval application, premarket notification pursuant to

section 510(k) of the federal Food, Drug and Cosmetic Act (510(k)) and any other product exempted by FDA from the 510(k) premarket notification requirement.

(c) Exclusions from Exemptions. Notwithstanding the provisions of 310 CMR 7.02(2)(a), and 7.02(2)(b), the provisions 310 CMR 7.02(4) and 310 CMR 7.02(5) requiring a written plan approval shall apply to construction, substantial reconstruction or alteration of a facility or emission unit that:

1. is specifically included in 310 CMR 7.02(4)(a)3. or 4.; or
2. is specifically included in 310 CMR 7.02(5)(a)5. through ~~4311~~.; or
3. would cause increases in aggregate emissions ~~above thresholds defined by pursuant to~~ 310 CMR 7.02(6) that equal or exceed plan approval thresholds in 310 CMR 7.02(5)(a)(6); or
4. would cause or contribute to a condition of air pollution under 310 CMR 7.02(7); or
5. would cause a facility to become subject to 310 CMR 7.00: Appendix C.

(d) Record Keeping. The owner or operator of a facility or emission unit that is exempt from plan approval under 310 CMR 7.02(2)(b) shall keep the following records on-site and up-to-date, such that year-to-date information is readily available for Department examination upon request:

1. Documentation of the date of construction, substantial reconstruction or alteration.
2. Documentation, including emission calculations, under the specific condition(s) that qualifies the activity for exemption (e.g., size threshold, emissions).
3. Air pollution control and other equipment performance specifications.
4. Verification of the overall efficiency of any air pollution control device adequate to support assumptions of emission control equipment capture efficiency (documentation of permanent total enclosures) and destruction/removal efficiency.

(e) Reporting

1. The owner or operator of a facility subject to the Source Registration reporting requirements of 310 CMR 7.12, shall report the construction, substantial reconstruction or alteration activities that qualified for exemption in the next required Source Registration. Quantification of emissions from exempt activities is not required unless specifically requested.
2. The owner or operator of a facility required to report under 310 CMR 7.02(2)(b)33. for contravening the provisions of a plan approval shall submit the report within 30 days of said action.

(f) Enforcement. If construction, substantial reconstruction, alteration or operation of an emission unit for which an exemption from plan approval is claimed, violates any provisions of 310 CMR 7.00, the person owning, leasing, operating or controlling the facility will be subject to enforcement under M.G.L. c. 111, §§ 142A and B, and c. 21A, § 16 and/or any other relief or remedy provided by law including, but not limited to, injunctive relief.

(3) General Requirements for Plan Approval.

(a) General. No person shall construct, substantially reconstruct, alter, or subsequently operate any facility subject to the requirements of 310 CMR 7.02(4) or (5) unless an application for a plan approval has been submitted to the Department and plan approval has been granted by the Department. Procedures and contents of an application for plan approval can be found at 310 CMR 7.02(4) and 310 CMR 7.02(5).

- (b) Form of Approval. Any plan approval or plan disapproval will be issued by the Department in writing. If a plan application is disapproved, the Department will provide a written explanation of the circumstances that led to the decision to disapprove the application.
- (c) Conditions of Approval. The Department may impose any reasonable conditions in a plan approval including conditions determined to be necessary to insure that the facility will be built, operated, and maintained as specified in the application for plan approval.
- (d) Monitoring and Testing. The Department may require the applicant to monitor and/or test emissions as a condition of approval. The plan approval may include conditions that direct the applicant to install sampling ports of a specified size, number or location, direct the applicant to provide safe access to each sampling port or direct the applicant to install instrumentation to monitor and record emissions data and/or operating parameters.
- (e) Record Keeping and Reporting. The Department may require an applicant to maintain records and provide periodic reports to the Department, as necessary, to assure continuous compliance with standard operating procedures, standard maintenance procedures, emission limitations, and any work practices contained in the plan approval.
- (f) Compliance with Plan Approvals. Other than as provided in 310 CMR 7.02(2)(f), no person shall operate a facility approved under 310 CMR 7.02 except in compliance with any plan approval issued to the facility. A plan approval does not reduce or negate the responsibility of the facility owner or operator to comply with any other applicable requirements of the Department.
- (g) Massachusetts Environmental Policy Act (MEPA) Review. Prior to obtaining a plan approval, an applicant must comply with the requirements of 301 CMR 11.00 if applicable. The review thresholds for stationary sources of criteria or hazardous air pollutants are contained at 301 CMR 11.03(8): *Air*.
- (h) Opportunity for Comment. The Department ~~will~~ shall provide an opportunity for public comment ~~as specified in~~ in accordance with the requirements in 40 CFR Part 51.161 prior to issuing an approval or denial of a plan ~~approval~~ application required under:
1. 310 CMR 7.02(4) or (5) for any facility that meets or exceeds ~~an~~ MEPA Review threshold for stationary sources of criteria or hazardous air pollutants, contained at 301 CMR 11.03(8): *Air*; and
  - ~~1.~~ 2. 310 CMR 7.02(5).
- (i) Reserved.
- (j) Department Approval. Plan approval will be issued by the Department where:
1. The emissions from a facility do not result in air quality exceeding either the Massachusetts or National Ambient Air Quality Standards; and
  2. The emissions from the facility do not exceed applicable emission limitations specified in 310 CMR 7.00; and
  3. The emissions from the facility do not result in violation of any provision of 310 CMR 7.00; and
  4. The facility does not require a plan approval pursuant to 310 CMR 7.00: *Appendix A* or the plan approval requirements of 310 CMR 7.00: *Appendix A* have been met by the application and a 310 CMR 7.00: *Appendix A* plan approval has been issued by the Department. The Department has the discretion to issue the 310 CMR 7.00: *Appendix A* plan approval in conjunction with a 310 CMR 7.02 plan approval; and
  5. Reserved



6. The emissions from such a facility or operation of such a facility represent the most stringent emission limitation as specified in 310 CMR 7.02(8); and
  7. The owner or operator of the facility has made a demonstration of compliance required under 310 CMR 7.02(4)(d)5. or 310 CMR 7.02(5)(c)8.; and
  8. The requirements of 40 CFR Part 63.40 through 40 CFR Part 63.44 are applicable and have been met and an approval has been issued as required by 40 CFR Part 63.40 through 40 CFR Part 63.44. The Department has the discretion to issue an approval under 40 CFR Part 63.40 through 40 CFR Part 63.44 in conjunction with a plan approval issued under 310 CMR 7.02..
- (k) Plan Approval Revocation. The Department may revoke any plan approval if construction has not commenced within two years of the date of a plan approval or, if during construction, construction is suspended for a period of one year or more. For purposes of 310 CMR 7.02(3)(k), construction has commenced if the owner or operator of the facility has begun a continuous program of physical on-site construction of the facility or emission unit that is permanent in nature.
- (l) Plan Approval Duration. Plan approvals are valid for the life of the emission unit or facility, regardless of changes in ownership. Plan approvals issued to a facility that changes ownership, are binding upon the new owner. (See 310 CMR 7.02(2)(b)23.)
- (m) Reactivating an Inactive Emission Unit. Any person who owns, operates or controls an emission unit or facility that has not operated for at least 24 hours in each of the most recent two calendar years is required to obtain a new plan approval prior to re-commencing operation of that emission unit unless sufficient evidence is presented to convince the Department that the shutdown was temporary and the re-startup could occur within a short time period in full compliance with 310 CMR 7.00. Such evidence shall include documentation showing that during the shutdown period:
1. Continued maintenance of the equipment was performed,
  2. There has been compliance with all regulatory requirements such as installation of any monitoring equipment, instrumentation, control equipment, or process controls,
  3. The facility or unit was included in Source Registration submissions to the Department pursuant to 310 CMR 7.12, and
  4. Any other relevant supporting information.

If the facility does not, in the judgment of the Department, submit sufficient evidence to demonstrate to the Department that the shutdown was temporary, then the Department may revoke the plan approval. If the Department revokes the plan approval, the facility must obtain a new plan approval prior to re-commencing operation of that facility or emission unit.

(n) Prohibitions.

1. Concealing Emissions. No person shall cause, suffer, allow, or permit the installation or use of any material, article, machine, equipment, or contrivance which conceals an emission without reducing the total weight of emissions where such emission would constitute a violation of any applicable regulation.
2. Air Pollution Control Equipment. No person shall cause, suffer, allow or permit the removal, alteration or shall otherwise render inoperable any air pollution control equipment or equipment used to monitor emissions that is required by 310 CMR 7.00, without specific written authority of the Department or in conformance with the specific exemptions listed in 310 CMR 7.02(2). An exception to 310 CMR 7.02(3)(n)2. is allowed for reasonable maintenance periods or unexpected and

unavoidable failure of the equipment provided that the Department is notified, in writing, within 24 hours of the occurrence of such failure.

~~(o) Compliance with the Massachusetts Annual Electric Generating Unit (EGU)~~

~~Mercury Budget and Mercury Requirements:~~

~~1.—Any person who owns, operates or controls an EGU (as defined in 40 CFR 60.24(h)(8)), other than an EGU at an affected facility as defined in 310 CMR 7.29, shall obtain, before the later of January 1, 2010 or the first date on which the unit meets the definition of an EGU and emits mercury, a plan approval that includes an annual cap on mercury emissions from all fuels used by the EGU, allocated from the 45 pound mercury set aside established in 310 CMR 7.02(3)(o)3.~~

~~2.—No person who owns, operates or controls an EGU (as defined in 40 CFR 60.24(h)(8)) at an affected facility as defined in 310 CMR 7.29 shall increase the EGU's mercury emissions from all fuels used by the EGU above the applicable baseline mercury emissions listed in 310 CMR 7.02(3)(o)2.: Table A unless and until the person obtains a plan approval that includes an annual cap on mercury emissions from all fuels used by the EGUs at the affected facility for the periods January 1, 2010 through December 31, 2017, and January 1, 2018 and thereafter. The cap shall equal, at most, the baseline maximum mercury emissions, as listed in 310 CMR 7.02(3)(o)2.: Table A, plus an amount to cover any increase in mercury emissions above the baseline amount. Only the increase in mercury emissions above the baseline shall be apportioned from the 45 pound mercury set aside established in 310 CMR 7.02(3)(o)3.~~

310 CMR 7.02(3)(o)2.: Table A		
Unit	Baseline Hg emissions (pounds) 1/1/2010 through	Baseline Hg emissions (pounds) beginning
Brayton Point unit 1	18.6	6.2
Brayton Point unit 2	18.6	6.2
Brayton Point unit 3	46.2	15.4
Mount Tom unit 1	10.8	3.6
Salem Harbor unit 1	6.3	2.1
Salem Harbor unit 2	6.1	2.0
Salem Harbor unit 3	10.8	3.6
Somerset unit 8	9.3	3.1

~~3.—There is a 45 pound mercury set aside for applicants seeking plan approvals pursuant to 310 CMR 7.02(3)(o)1. and 2. The Department only shall issue a plan approval to an EGU (as defined in 40 CFR 60.24(h)(8)) if the mercury emissions capped in the plan approval, combined with mercury emissions previously capped pursuant to 310 CMR 7.02(3)(o)1. and mercury emissions increases previously capped pursuant to 310 CMR 7.02(3)(o)2., would not cause the set aside of 45 pounds of mercury per calendar year to be exceeded.~~

~~4.—Any person who owns, operates or controls an EGU (as defined in 40 CFR 60.24(h)(8)) shall comply with all mercury monitoring, recordkeeping, and reporting requirements in 40 CFR Part 75 and “Hg Designated Representative For Hg Budget Sources” and “Monitoring and Reporting” in 40 CFR Part 60 Subpart HHHH.~~

~~5.—In implementing the provisions of 40 CFR Part 75 concerning monitoring of~~

~~mercury mass emissions, the terms used in that part shall have the meanings defined in 40 CFR Part 72; provided, however, that the term Permitting Authority shall mean the Department. In implementing the provisions of the Clean Air Mercury Rule in 40 CFR Part 60 Subparts Da and HHHH, the terms used in those subparts shall have the meanings defined in 40 CFR Part 60, provided, however, that the term Permitting Authority shall mean the Department, the term Hg Budget Trading Program shall mean 310 CMR 7.02 and 7.29, and the term Hg Budget Unit shall mean an EGU as defined in 40 CFR 60.24(h)(8).~~

(4) Limited Plan Application (LPA).

(a) Applicability. Calculation of potential emissions associated with an LPA shall be in accordance with 310 CMR 7.02(4)(b). An LPA is required from any person prior to constructing, substantially reconstructing, altering, or subsequently operating any facility or emission unit described as follows:

1. Emission Increase of Less Than Ten Tons Per Year. Any facility where the construction, substantial reconstruction, alteration or subsequent operation would result in an increase in potential emissions of a single air contaminant equal to or greater than one ton per year and less than ten tons per year, calculated over any consecutive 12 month time period.

2. Fuel Utilization Emission Units. Any fuel utilization emissions unit, excluding internal combustion engines such as combustion turbines or reciprocating engines, where construction, substantial reconstruction, alteration or subsequent operation results in an increase in potential emissions of a single air contaminant equal to or greater than one ton per year and the emission unit has a maximum energy input capacity equal to or greater than:

- a. 10,000,000 Btu and less than 40,000,000 Btu per hour utilizing natural gas ~~or propane~~;
- b. 10,000,000 Btu and less than ~~34~~40,000,000 Btu per hour utilizing distillate fuel oil;
- c. 10,000,000 Btu and less than 20,000,000 Btu per hour utilizing residual fuel oil having a sulfur content of equal to or less than 0.28 pounds per million Btu heat release potential (approximately equal to 0.5% sulfur by weight) (Also see 310 CMR 7.05(1) and (2));
- d. 5,000,000 Btu and less than 10,000,000 Btu per hour utilizing residual fuel oil having a sulfur content of less than 0.55 pounds per million Btu heat release (approximately equal to 1% sulfur by weight). (Also see 310 CMR 7.05(1) and (2)); or
- e. 3,000,000 Btu and less than 10,000,000 Btu per hour utilizing used oil fuel (Also see 310 CMR 7.04(9), and 7.05(7),(8) and (9)).

NOTE: Multiple fuel utilization emission units constructed or modified at a single facility must be evaluated for aggregate emissions to ensure that 310 CMR 7.00: Appendix A or PSD (40 CFR 52.21) is not triggered.

3. Modification of Plan Approval Terms and Conditions. Except as provided in 310 CMR 7.02(5) and 310 CMR 7.02(6), construction, substantial reconstruction, alteration or subsequent operation of a facility that would contravene the terms and conditions in an existing plan approval, provided that:

- a. The planned construction, substantial reconstruction, alteration or subsequent

operation would increase potential emissions by equal to or greater than one ton per year but less than ten tons per year, calculated over any consecutive 12 month time period, over the emission limitation established by an existing plan approval, and

b. The planned construction, substantial reconstruction, alteration, or subsequent operation would only affect the:

- i. Allowable or potential emission rates; or
- ii. Operating hours; or
- iii. Process feed rates; or
- iv. A combination of 310 CMR 7.02(4)(a)3.b.i. through iii.

Actions that would contravene emission control equipment design specifications, capture and/or destruction efficiency standards for control equipment, emission limits established by a BACT approval, air contaminant ventilation characteristics such as a reduction in stack height, or limitations on the VOC/HOC content of coatings, require a plan approval. Where the action would result in an increase in allowable or potential emissions above limits established in an approved RES, the RES must be modified as described in 310 CMR 7.02(10). In order to determine applicability under 310 CMR 7.02(4)(a)3.b., emissions must be calculated in accordance with 310 CMR 7.02(4)(b).

4. Applicability of Non-attainment, PSD, or MACT Review. Any construction, substantial reconstruction, alteration or subsequent operation, unless enforceable restrictions are established would result in a portion or all of the facility being subject to:

- b. Emission Offsets and Non-attainment Review at 310 CMR 7.00: *Appendix A*;  
~~or~~
- c. PSD Permitting at 40 CFR Part 52.21; ~~or~~
- d. 40 CFR Part 63.40 through 40 CFR Part 63.44; ~~or~~
- ~~d.~~ e. 310 CMR 7.00: Appendix C.

(b) Calculation of Emissions. Calculation of potential emissions associated with an LPA must be based on the potential emissions (as defined in 310 CMR 7.00) of the proposed construction, substantial reconstruction or alteration. Limitations on the potential emissions proposed in the application must be made enforceable as a practical matter to be federally enforceable (see definition of federal potential to emit. Reductions in emissions resulting from reduced utilization or elimination of an existing emission unit cannot be deducted, (i.e. no netting). Products of combustion are not included when calculating applicability under 310 CMR 7.02(4)(a)1. Emissions from an emission unit(s) installed in accordance with 310 CMR 7.03 or 310 CMR 7.26 are not included when calculating an increase in potential emissions for purposes of determining applicability under 310 CMR 7.02(4)(a)1. and 2.

(c) Reserved.

(d) Limited Plan Application Requirements. To apply for an LPA, an applicant shall satisfy each of the following conditions:

- 1. The application shall be made on a form furnished by the Department or by other means required by the Department.
- 2. The application shall be signed by a responsible official.
- 3. The application shall be submitted in duplicate.
- 4. The application shall be accompanied by sufficient information to document the facility's potential emissions.

5. The application shall contain an affirmative demonstration that any facility in Massachusetts owned or operated by such persons (or by an entity controlling, controlled by or under common control with such person) that is subject to 310 CMR 7.00, is in compliance with or on a Department approved compliance schedule to meet all provisions of 310 CMR 7.00 and any plan approval, notice of noncompliance order or plan approval issued thereunder.

(5) Comprehensive Plan Application (CPA).

(a) Applicability. Calculation of potential emissions associated with a CPA shall be in accordance with 310 CMR 7.02(5)(b). A CPA is required from any person prior to constructing, substantially reconstructing, altering or subsequently operating any facility or emission unit as follows:

1. Emission Increase Greater than or Equal to Ten Tons Per Year. Any facility where the construction, substantial reconstruction, alteration or subsequent operation would result in an increase in potential emissions of a single air contaminant equal to or greater than ten tons per year, calculated over any consecutive 12 month time period.

2. Fuel Utilization Emission Units. Any fuel utilization emission unit, excluding internal combustion engines such as combustion turbines or reciprocating engines, where construction, substantial reconstruction, alteration or subsequent operation results in an increase in potential emissions of a single air contaminant of equal to or greater than one ton per year, and said emission unit has a maximum energy input capacity equal to or greater than:

- a. 40,000,000 Btu per hour utilizing natural gas ~~or propane~~.
- b. ~~34~~40,000,000 Btu per hour utilizing distillate fuel oil.
- c. 20,000,000 Btu per hour utilizing residual fuel oil having a sulfur content of equal to or less than 0.28 pounds per million Btu heat release potential (approximately equal to 0.5% sulfur by weight).
- d. 10,000,000 Btu per hour utilizing residual fuel oil having a sulfur content of less than 0.55 pounds per million Btu heat release (approximately equal to 1% sulfur by weight) or used oil fuel (See also the requirements of 310 CMR 7.04(9) and 310 CMR 7.05(7), (8) and (9)).
- e. 3,000,000 Btu per hour utilizing:
  - i. Residual fuel oil having a sulfur content greater than 0.55 pounds per million Btu but not in excess of 1.21 pounds per million Btu heat release potential (greater than 1% sulfur by weight but less than or equal to approximately 2.2% sulfur by weight).
  - ii. Hazardous waste fuel.
  - iii. Solid fuel with automatic fuel feed.
  - iv. Landfill gas.
  - v. Digester gas.

NOTE: Multiple fuel utilization emission units installed at a facility must be evaluated for aggregate emissions to ensure that 310 CMR 7.00: *Appendix A* or PSD (40 CFR 52.21) is not triggered.

3. Internal Combustion Engines.

- a. Prior to March 23, 2006 any individual internal combustion engine, such as a stationary combustion turbine or a stationary reciprocating engine, having a maximum energy input capacity equal to or greater than 3,000,000 Btu per hour,



- and the construction, substantial reconstruction, alteration or subsequent operation results in an increase in potential emissions of a single air contaminant of equal to or greater than one ton per year.
- b. Any individual internal combustion engine, such as stationary combustion turbine or stationary reciprocating engine, installed on or after March 23, 2006 shall comply with the requirements of 310 CMR 7.26(40) through (44), Engines and Combustion Turbines, except as provided by 310 CMR 7.26(42)(a)1., 310 CMR 7.26(43)(a)2. and 310 CMR 7.26(43)(a)3.
- c. An application is not required pursuant to 310 CMR 7.02(5)(a)3. if the internal combustion engine is regulated by EPA as a non-road engine pursuant to 40 CFR 89, 90, 91, and 92.
4. Hand-fired Solid Fuel Utilization Facilities. Any hand fired solid fuel utilization facility having an energy input capacity equal to or greater than 1,000,000 Btu per hour.
5. Incinerators. Any incinerator.
6. Aggregated De minimis Emission Increases. Any facility where the sum of the incremental changes (less than one ton each) in potential to emit, calculated over any consecutive 12 month time period, equals or exceeds ten tons for any single criteria pollutant or any single non-criteria pollutant. (See 310 CMR 7.02(6))
7. ~~Facilities Subject to PSD, Nonattainment Review or Case-by-case MACT.~~ Any facility, regardless of any exemption established elsewhere [in 310 CMR 7.00](#), where the construction, substantial reconstruction or alteration [would](#) causes a facility to be subject to Prevention of Significant Deterioration (40 CFR Part 52.21), Emissions Offsets and Nonattainment Review (310 CMR 7.00: *Appendix A*), or Case-by-case MACT (40 CFR Part 63.40 through 40 CFR Part 63.44).
8. Modification of Plan Approval Conditions. Any facility, regardless of any exemption established elsewhere in 310 CMR 7.00, that requires a modification to a condition of any plan approval issued by the Department due to an increase in potential emissions equal to or greater than ten tons per year (calculated over any consecutive 12 month time period), over the emission limitation established by plan approval. The increase in potential emissions shall be calculated in accordance with 310 CMR 7.02(5)(b).
9. Modification of a PSD Permit, a Non-attainment Review Plan Approval or a Case-by-case MACT. Any facility, where the construction, substantial reconstruction or alteration would violate a condition of a [PSD Permit, a Non-attainment Review approval \(310 CMR 7.00, Appendix A\)](#) or [a Case-by-case MACT \(40 CFR Part 63.40 through 40 CFR Part 63.44\)](#) regardless of the expected change in emissions and any exemptions established elsewhere in 310 CMR 7.00.
10. Facilities with the Potential to Cause or Contribute to Air Pollution. Any facility, regardless of any exemption established elsewhere in 310 CMR 7.00 that the Department determines has the potential for causing or contributing to a condition of air pollution.
11. Major Modifications at Large Combustion Emission Units (LCEU). A Comprehensive Plan Application is required for major modifications for any large combustion emission unit. The applicability criteria for a CPA and associated definitions for LCEU(s) are set forth in 310 CMR 7.54.
- ~~12. Electric Generating Unit (EGU). Any EGU (as defined in 40 CFR 60.24(h)(8)), other than an EGU at an affected facility as defined in 310 CMR 7.29, that will emit~~

~~mercury above a mercury cap established in a written approval of a CPA. Mercury cap refers to a cap established pursuant to 310 CMR 7.02(3)(o).~~

~~13. Electric Generating Unit (EGU). Any EGU (as defined in 40 CFR 60.24(h)(8)) at an affected facility, as defined in 310 CMR 7.29, that will emit mercury from all fuels utilized above the baseline mercury emissions listed in 310 CMR 7.02(3)(o)2.: Table A plus any additional mercury allowed by a mercury cap in a written approval of a CPA. Mercury cap refers to a cap established pursuant to 310 CMR 7.02(3)(o).~~

(b) Calculation of Emissions. Calculation of potential emissions associated with a CPA must be based on the potential emissions (as defined in 310 CMR 7.00) of the proposed construction, substantial reconstruction or alteration. Limitations proposed on the potential emissions in the application must be made enforceable, as a practical matter, to be federally enforceable (*see* definition of federal potential to emit). Reductions in emissions resulting from reduced utilization or elimination of emission units cannot be deducted (*i.e.* no netting). Products of combustion are not included when calculating applicability under 310 CMR 7.02(5)(a)1. Emissions from an emission unit(s) installed in accordance with 310 CMR 7.023 or CMR 7.26 are not included when calculating an increase in potential emissions for purposes of determining applicability under 310 CMR 7.02(5)(a)1., 2. and 3.

(c) Comprehensive Plan Application Requirements. To apply for a CPA, an applicant shall satisfy each of the following conditions:

1. The application shall be made on a form furnished by the Department or by other means required by the Department.
2. The application shall be signed by a responsible official.
3. The application shall be submitted in duplicate.
4. The application shall be accompanied by a description of the proposed activity, site information, plans, specifications, drawings illustrating the design of the facility, calculations detailing the nature and amount of all emissions, and procedures describing the manner in which the facility will operate and be maintained.
5. The application shall demonstrate compliance with the requirements of 310 CMR 7.02(8)(a) relating to compliance with emission limitations.
6. Additional information shall be furnished upon request by the Department including, but not limited to, air dispersion modeling, additional plans or specifications, and documentation or evidence to support the application.
7. The application shall bear the seal and signature of a professional engineer registered in the Commonwealth of Massachusetts under the provisions of M.G.L. c. 112.
8. The application shall contain an affirmative demonstration that any facility(ies) in Massachusetts owned or operated by such persons (or by an entity controlling, controlled by or under common control with such person) that is subject to 310 CMR 7.00 *et seq.*, is in compliance with or on a Department approved compliance schedule to meet all provisions of 310 CMR 7.00 *et seq.* and any plan approval, notice of noncompliance order or plan approval issued thereunder.

(d) Prevention of Significant Deterioration. In addition to the requirements contained at 310 CMR 7.02(5)(c), ~~major~~ new major stationary sources of air contaminants and major modifications of existing major stationary sources located in attainment areas are subject to Prevention of Significant Deterioration (PSD) regulations promulgated in 40 CFR Part 52.21. ~~Effective July 1, 1982, the PSD program was implemented by the Department in accordance with the Department's "Procedures for Implementing Federal Prevention of~~

~~Significant Deterioration Regulations." Effective March 3, 2003, the PSD program is implemented by the U.S. Environmental Protection Agency.~~

(e) Case-by-case Maximum Achievable Control Technology. In addition to the requirements contained at 310 CMR 7.02(5)(c), the construction or reconstruction of major sources of hazardous air pollutants (as defined by 40 CFR Part 63.41) is subject to 40 CFR Part 63.40 through .44. This is a requirement to satisfy The Clean Air Act, § 112(g) that construction or reconstruction after June 29, 1998 of a major source of hazardous air pollutants (as defined in 40 CFR Part 63.2) be equipped with MACT. These requirements apply only if the source has not been either regulated or exempted by a standard issued pursuant to The Clean Air Act, § 112(d), 112(h), or 112(j) or the process category has been delisted pursuant to The Clean Air Act, § 112(c)(9). 40 CFR Part 63.40 through .44 is implemented by the Department as of August 3, 2001.

~~(f) Facilities with Operating Permits. An owner or operator of a facility issued an operating permit under the provisions of 310 CMR 7.00: Appendix C, with proposed changes at the facility that are not a modification under any provision of Title I of the Clean Air Act, (42 U.S.C. 7401 through 7515) may elect a shorter plan review timeline available under 310 CMR 4.10(2)(j)(1) provided that a pre-application meeting is held with the appropriate regional office personnel no more than 90 days prior to the anticipated date that the CPA is to be submitted and an application for a minor modification of the operating permit is submitted to the Department in accordance with the requirements of 310 CMR 7.00: Appendix C(8) and timelines established at 310 CMR 7.00: Appendix C(4)(b)2.~~

6) Aggregated Emissions.

(a) Applicability.

1. Any person who owns or operates a facility shall track emission increases as defined below over any consecutive 12 month time period which includes a particular emission increase in order to determine if plan approval is required pursuant to 310 CMR 7.02(5)(a)6.
2. Emission increases that are subject to this requirement are those associated with the construction, substantial reconstruction or alteration of a facility or emission units that:
  - a. Are individually not subject to plan approval under 310 CMR 7.02(4) or 310 CMR 7.02(5); and
  - b. Have not previously been aggregated for purposes of plan approval under 310 CMR 7.02(4) and 310 CMR 7.02(5); and
  - c. Are not part of a program of construction or modification in planned incremental phases previously approved by the Department.

(b) Calculation of Emissions. Aggregated emissions shall be calculated as the sum of the potential emissions of any air contaminant identified in 310 CMR 7.02(6)(a). Products of combustion from any fuel utilization facility or emissions resulting from construction, substantial reconstruction or alteration, in accordance with the requirements of 310 CMR 7.03 or 7.26, are not included in this calculation.

7) Mitigation of Air Pollution

(a) Requirement to Collect Information. When the Department determines that any facility or product manufactured therein has the likelihood of causing or contributing to a condition of air pollution, the Department may require the person owning, leasing or

controlling said facility to submit information to document facility emissions, operating parameters of emission control equipment, and standard operating and maintenance procedures. In doing so, the Department may require any person who owns, operates or controls any facility, or who manufactures emissions control equipment or process equipment to:

1. Establish and maintain records;
2. Make reports;
3. Install, use, and maintain monitoring equipment;
4. Perform audits on monitoring equipment using standard procedures and methods;
5. Quantify emissions in accordance with the procedures, and methods as the Department may prescribe;
6. Keep records on control equipment parameters, production variables, and other indirect data when direct monitoring of emissions is not practical;
7. Conduct stack testing or submit modeling analysis; or
8. Maintain other records and provide any other information as the Department might reasonably require.

(b) Department Review of Information. The Department will use information submitted pursuant to 310 CMR 7.02(7)(a) to determine the adequacy and application of existing air pollution control technology at a facility to prevent a condition of air pollution. In addition, the Department's representative, upon presentation of credentials:

1. Shall have right of entry to, upon, or through any premises of any such person in which records required by 310 CMR 7.02(7)(a) are located, and
2. May at reasonable times have access to copy any records, inspect any equipment, review any documents, and sample any emissions that the owner or operator of the facility is required to sample under 310 CMR 7.02(7)(a).

(c) Compliance Monitoring and Compliance Certification. The Department may require any person to perform compliance monitoring and submit a compliance certificate subject to the standards of 310 CMR 7.01(2). Compliance certifications shall include:

1. Identification of all applicable requirements that are the basis for certification;
2. The method used to determine compliance status of the facility;
3. The compliance status of the facility, and each emission unit;
4. Whether compliance is continuous or intermittent; and
5. Other facts as the Department might require.

(d) Plan Approval and Compliance Schedule Requirement. If, after review of the submitted information, the Department determines that the facility is in need of reconstruction, alteration or repair to prevent the facility from causing or contributing to a condition of air pollution, the Department may require the person owning, leasing, operating or controlling the facility to submit an application for a CPA under 310 CMR 7.02(5). The plan application required by this section shall be provided to the Department by the deadline specified by the Department and shall contain a proposed compliance schedule subject to Department approval.

(e) Continuing Operations. The Department may allow the facility to temporarily continue to operate pending reconstruction or repair provided that the person owning, leasing, operating or controlling the facility complies with all requirements and deadlines of 310 CMR 7.02(7)(d).

8) Emission Limitations.

(a) Emission Limitations in Plan Approvals. The Department's written approval of an

LPA or CPA shall include the most stringent emission limitation of the following, as applicable:

1. Lowest Achievable Emission Rate (LAER) where the construction, substantial reconstruction or alteration is subject to the requirements of Emission Offsets and Non-attainment Review in 310 CMR 7.00: *Appendix A*.
2. Best Available Control Technology (BACT). BACT is required of all LPA approvals and CPA approvals. In no case will BACT be less stringent than any applicable emissions limitation contained in a Department regulation (*e.g.*, 310 CMR 7.05, 7.18, 7.19, 7.24, 7.26 or 7.29) or federal regulation (*e.g.*, 40 CFR 60, 61 or 63). BACT may include a design feature, equipment specification, work practice, operating standard or combination thereof. (*See* Definition of BACT in 310 CMR 7.00.) Applicants shall identify BACT for their specific application using a top-down BACT analysis. Refer to Department guidance for conducting a top-down BACT analysis. In lieu of an emission-unit-specific top-down BACT analysis, an applicant may propose an emission control limitation by using one or more of the following approaches:
  - a. Propose a level of control from the most recent plan approval or other action issued by the Department (Top Case BACT).
  - b. Propose a level of control based on combination of best management practices, pollution prevention, and a limitation on the hours of operation and/or raw material usage that minimizes emissions to the maximum extent practical. This approach is only available if the proposed allowable emissions, calculated over any consecutive 12 month time period, are:
    - i. Less than 18 tons VOC and HOC combined;
    - ii. Less than 18 tons of total organic material HAP; and
    - iii. Less than ten tons of a single organic material HAP.
  - c. Notwithstanding 310 CMR 7.02(8)(a)2.a. and b., the Department may consider any other information in determining BACT for any given plan application and approval.
3. New Source Performance Standards (NSPS) as defined in 40 CFR Part 60.
4. National Emission Standards for Hazardous Air Pollutants (NESHAP) as defined at 40 CFR Part 61.
5. National Emission Standards for Hazardous Air Pollutants for Source Categories as defined at 40 CFR Part 63-~~(MACT)~~.
6. Case by case MACT as determined under 310 CMR 7.02(5)(e).
7. Plan Approvals under 310 CMR 7.02(7) or 7.02(5)(a)10. Any emission limitation required in such plan approval shall be sufficient to eliminate the potential to cause a condition of air pollution.
  - a. For a proposed facility, even if said such emission limitation ~~is~~ may be more stringent than an emission limitation that would otherwise be determined to be BACT in order to mitigate a condition of air pollution.
  - b. For an existing facility, such emission limitation may be less stringent than an emission limitation that would otherwise be determined to be BACT, but must mitigate the condition of air pollution.
8. Plan Approvals under 310 CMR 7.26(45) shall use the credits calculated by 7.26(45)(b)4 to subtract from the actual emissions in determining compliance with the established emission limits.



(b) Fuel Switching. Applicants for conversion of fuel utilization facilities equal to or greater than 100,000,000 Btu per hour from oil or solid fuel to natural gas or dual-fuel oil/natural gas, are not required to provide an assessment of BACT in the application for plan approval (LPA or CPA). Further, this action is not considered a major modification subject to 310 CMR 7.00: *Appendix A* provided that the project qualifies as a pollution control project. For the purpose of 310 CMR 7.02(8), a fuel utilization facility is defined as any single boiler, hot oil generator, melt furnace, oven, or similar fuel burning unit as determined by the Department.

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